

**GUTRIDE SAFIER LLP**

ADAM J. GUTRIDE (State Bar No. 181446)

SETH A. SAFIER (State Bar No. 197427)

835 Douglass Street

San Francisco, California 94114

Telephone: (415) 336-6545

Facsimile: (415) 449-6469

Attorneys for Plaintiff KEVIN EMBRY

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

KEVIN EMBRY, an individual, on  
behalf of himself, the general public and  
those similarly situated

Plaintiff,

v.

ACER AMERICA CORPORATION;  
AND DOES 1 THROUGH 50

Defendants

CASE NO. CV-09-1808 (JW)

PLAINTIFF'S MOTION FOR ADMINISTRATIVE  
RELIEF SHORTENING TIME

[Local Rules 6-3 & 7-11]

Judge: Hon. James Ware

1       **PLEASE TAKE NOTICE** that Plaintiff hereby moves, pursuant to Local Rules 6-3 and 7-11,  
2 for an order shortening time for the hearing of Plaintiff's motion for further sanctions. (Dkt.# 277.)  
3 Plaintiff requests that his motion for sanctions and civil contempt, currently set for hearing on November  
4 5, 2012, be heard on October 15, 2012.

5       This Motion is based on this Notice of Motion, the supporting Memorandum of Points and  
6 Authorities, the Declaration of Seth A. Safier, the [Proposed] Order Granting this Motion, the  
7 pleadings, other files and records in this action, such other written or oral argument as may be  
8 presented to the Court, and all matters of which the Court may take notice.

9                   **MEMORANDUM OF POINTS AND AUTHORITIES**

10       Plaintiff requests that his motion for sanctions and civil contempt be heard on October 15, 2012.  
11 Plaintiff further requests that Bandas' opposition be due no later than October 5, 2012, and the reply be  
12 due no later than October 9, 2012. (If necessary, Plaintiff will waive reply.)

13       This matter has been pending since March 2009. On August 22, 2012, this Court ordered  
14 Bandas to dismiss his appeal or post an appeal bond. (Dkt.# 272.) He ignored the order. On August  
15 29, this Court held Bandas in contempt of Court. (Dkt.# 275.) He ignored that order as well. It is no  
16 secret that Bandas (and his attorney) exclusively seek to delay this settlement in hopes of extracting fees  
17 from the parties. If this motion is heard on a regular calendar, he will again have been successful in  
18 delaying, for another 35+ days, the distribution of the settlement benefits to class members.

19       Plaintiff accordingly requests that this Court hear his motion to compel on shortened time, as set  
20 forth in his proposed order, submitted herewith.

21 DATED:       September 28, 2012

GUTRIDE SAFIER LLP

By: /s/ Seth Safier

Adam Gutride

Seth A. Safier

Attorneys for Plaintiff Kevin Embry

**DECLARATION OF SETH A. SAFIER**

I, Seth A. Safier, declare and state that:

1. I am an attorney licensed to practice law in the State of California and in this Court, and am counsel of record for Plaintiff in the above captioned matter.

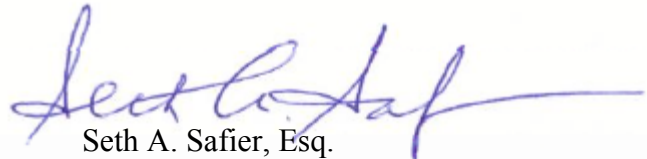
2. I am a partner in Gutride Safier LLP ("GSLLP"). The information below is stated based on personal knowledge. I am competent to testify to the facts set forth below, and if called as a witness and placed under oath, I would testify to those facts.

3. On September 28, 2012, I emailed Bandas' counsel to request that he stipulate to a shortened hearing schedule. He has yet to respond to my request.

4. There have been no previous time modifications on this motion.

5. Class members continue to sustain injury due to this ongoing, frivolous appeal.

I declare under penalty of perjury under the laws of the United States that the foregoing is true of my own personal knowledge. Executed at San Francisco, California, this 28th day of September 2012.

  
Seth A. Safier, Esq.